IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.12.2004

Coram

The Honourable Mr.Justice P.K.MISRA
and
The Honourable Mr.Justice S.ASHOK KUMAR

W.P.No. 34969 of 2004

K.Ravichandran ...Petitioner

-vs-

1. The Commissioner
West Arni Panchayat Union
West Arni, Thiruvannamalai Dist.

2.The District Collector
Thiruvannamalai Dist.

3.The Secretary to Govt.
Labour and Employment Dept.
Fort St.George, Chennai 9

4. The Registrar
Tamil Nadu Administrative Tribunal
Chennai Bench, Chennai 104 ...Respondents

Petition under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus as stated therein.

For Petitioner : Mr.K.Venkataramani
For respondents: Mr.S.Gomathinayagam,
Spl.Govt. Pleader

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ORDER

(The Order of the Court was delivered by P.K.MISRA,J.)

The petitioner has filed the above writ petition praying to issue a writ of certiorarified mandamus calling for the records of the respondents in connection with the impugned order passed by the fourth respondent in O.A.No.2159/2003 dated 30.6.2003 by confirming the order of the first respondent issued in OMU/4923/02 dated 12.12.2002

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and quash the same and further direct the respondents to appoint the petitioner on compassionate ground and grant all consequential service and monetary benefits.

2.Heard Mr.K.Venkataramani, learned counsel appearing for the petitioner as well as Mr.S.Gomathinayagam, learned Special Government Pleader who accepts notice on behalf of the respondents.

3. The petitioner had filed O.A.No.2159/03 before the Tamilnadu Administrative Tribunal claiming that his application for appointment on compassionate ground should not have been rejected by the Government. The petitioner was born in the year 1963. His mother died in 1966 while she was in service. Subsequently, it is stated that the present petitioner filed an application in the year 1989 for appointment on compassionate ground after completing education. Since the said application had remained pending, thereafter, other applications were filed. Ultimately, the application was rejected during 2002, giving raise to filing of the original application. The Tribunal rejected the said application on the ground that the application for appointment on compassionate ground had been made after a long lapse of time. The learned counsel for the petitioner submits that as per the clarification issued by the Government, the period of three years indicated for filing application for appointment on compassionate ground is not applicable to this case where the Government servant in question had died prior to 26.6.1995 and thereafter the application should have been considered even though it was filed long after. It is of course true that at the time of death of the mother, the petitioner was three old child. Obviously he was not entitled to get any appointment at that stage and therefore, the application for appointment on compassionate ground after the completion of education should have been accepted. We are not inclined to accept the contention of the learned counsel for the petitioner. In the decision of the Supreme Court reported in (2004) 7 SCC 265 (PUNJAB NATIONAL BANK .vs. ASWINI KUMAR TANEJA), it was held :

> "4. ... It is to be seen that the appointment on compassionate ground is not a source of recruitment but merely an exception to the requirement regarding appointments being made on open invitation of application on merits. Basic intention is that on the death of the employee

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concerned his family is not deprived of the means of livelihood. The object is to enable the family to get over sudden financial crisis."

4. In (1989) 4 SCC 468 (SUSHMA GOSAIN v. UNION OF INDIA AND OTHERS), it was observed that in all claims relating to appointment on compassionate grounds, there should not be any delay in appointment and the purpose of providing appointment on compassionate ground is to mitigate the hardship due to death of bread-earner in the family and such appointment should be provided immediately to redeem the family in distress. It was further observed that the fact that the claimant was a minor at the time of death is not a ground to give appointment subsequently, unless the Scheme itself envisages specifically otherwise.

5. Similar views have been expressed in several decisions of the Supreme Court and almost all such decisions have been collated in the decision reported in (2004) 7 SCC 265 (cited supra).

6. Keeping in view the ratio of the aforesaid decisions when the facts of the present case are examined, there is no scope to interfere with the order passed by the Tribunal and no fault can be found with the order of rejection issued by the authorities concerned.

7. Accordingly, the writ petition is dismissed. No costs.

Bg

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

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2.The District Collector
  Thiruvannamalai Dist.

3.The Secretary to Govt.
  Labour and Employment Dept.
  Fort St.George, Chennai 9

4. The Registrar
   Tamil Nadu Administrative Tribunal
   Chennai Bench, Chennai 104

+ 1 cc to Mr.K.Venkataramani, Advocate CCSR 52125

+ 1 cc to Government Pleader CCSR 52281

ORDER IN W.P.34969 /2004

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